

IN THE SUPREME COURT OF THE STATE OF DELAWARE

MARK A. WARREN,	§	
	§	No. 401, 2009
Defendant Below,	§	
Appellant,	§	Court Below—Superior Court
	§	of the State of Delaware in and
v.	§	for New Castle County
	§	
STATE OF DELAWARE,	§	
	§	
Plaintiff Below,	§	Cr. ID No. 0407015658
Appellee.	§	

Submitted: July 24, 2009

Decided: July 28, 2009

Before **STEELE**, Chief Justice, **HOLLAND** and **RIDGELY**, Justices.

ORDER

This 28th day of July 2009, it appears to the Court that:

(1) On July 15, 2009, the Court received Mark A. Warren's notice of appeal from the Superior Court's denial of postconviction relief dated July 21, 2008 and docketed on July 22, 2008.¹ Pursuant to Supreme Court Rule 6, Warren's notice of appeal should have been filed on or before August 21, 2008.²

(2) On July 15, 2009, the Clerk issued a notice directing that Warren show cause why the appeal should not be dismissed as untimely

¹ See *State v. Warren*, 2008 WL 2943377 (Del. Super. Ct.) (denying postconviction relief).

² Del. Supr. Ct. R. 6(a)(iii).

filed.³ In response to the notice, Warren contends that he suffers from schizophrenia and depression, and he requests the Court’s assistance with his “legal issues.”

(3) “Time is a jurisdictional requirement.”⁴ Under Delaware law, a notice of appeal must be received by the office of the Clerk within the applicable time period to be effective.⁵ Unless an appellant can demonstrate that the failure to timely file a notice of appeal is attributable to court-related personnel, an untimely appeal cannot be considered.⁶

(4) Warren does not contend, and the record does not reflect, that his failure to timely file the notice of appeal in this case is attributable to court-related personnel. Consequently, this Court does not fall within the exception to the general rule that mandates the timely filing of a notice of appeal.⁷

NOW, THEREFORE, IT IS ORDERED, pursuant to Supreme Court Rule 29(b), that the appeal is DISMISSED.

BY THE COURT:

/s/ Myron T. Steele
Chief Justice

³ Del. Supr. Ct. R. 29(b).

⁴ *Carr v. State*, 554 A.2d 778, 779 (Del. 1989).

⁵ Del. Supr. Ct. R. 10(a).

⁶ *Bey v. State*, 402 A.2d 362,363 (Del. 1979).

⁷ *See Smith v. State*, 1999 WL 643005 (Del. Supr.); *Ellison v. State*, 1989 WL 88588 (Del. Supr.) (dismissing untimely appeals).